

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RICHARD R. FURSTENAU,)	
)	
Plaintiff,)	
)	
v.)	No. 07 C 6143
)	
CITY OF NAPERVILLE , a municipal)	The Honorable Charles R. Norgle
corporation; MICHAEL HULL ,)	
in his individual and official capacity;)	Magistrate Judge Geraldine Soat Brown
DAVID DIAL , in his individual and official)	
capacity; MICHAEL CROSS , in his)	
individual and official capacity;)	JURY TRIAL DEMANDED
PETER BURCHARD , in his individual)	
and official capacity; MARGO L. ELY ,)	
in her individual and official capacity,)	
and JOE MATCHETT , in his individual)	
and official capacity,)	
)	
Defendants.)	

PARTIES' JOINT STATUS REPORT

Pursuant to this Court's "Standing Order", the parties submit this "Referral Cases" status report.

1. Brief Summary of Claims

Plaintiff claims he was falsely arrested by Defendants City of Naperville, Dial, Cross, Hull and Matchett, in January of 2006.

Plaintiff further claims that, after he engaged in certain First Amendment-protected speech, including the filing of this civil rights complaint, certain Defendants (City of Naperville, Burchard, Ely and Matchett) unlawfully retaliated against him for doing so. There are no counterclaims or third party complaints.

2. Brief Statement of Relief Sought

Plaintiff seeks compensatory damages for humiliation, embarrassment, loss of reputation and costs and expenses associated with his successful defense of the criminal charges brought against him. Plaintiff also seeks punitive damages against the individual Defendants and the recovery of the costs and attorney fees reasonably incurred in the prosecution of this action.

Although a precise delineation of damages (which is likely to be the subject of expert testimony) cannot be stated at this time, Plaintiff anticipates that an award of compensatory and punitive damages will exceed \$750,000 exclusive of attorney fees.

3. Brief Description of Referral

Judge Norgle has referred the following matters to this Honorable Court: Pretrial conference under Rule 16; all Discovery motions; Discovery supervision; Discovery conference under Rule 26(f); Settlement Conference; Preparation of pretrial materials; Conduct necessary proceedings and enter Order/Report and Recommendation on all nondispositive pretrial motions through filing of pretrial materials including final pretrial order. (*See* Executive Order at Dkt. # 77).

4. Status of Briefing

There are pending fully-briefed motions to dismiss as to certain claims directed at Defendant City of Naperville and Defendants Burchard, Ely and Matchett.

Defendants Dial, Cross and Hull have answered.

The City has also filed a "Motion for a Protective Order to Structure Discovery," (*See* Dkt. #68-69). This Motion was to be presented to Judge Norgle on April 4, 2008, but has been re-noticed for presentment to this Court on April 30, 2008. Plaintiff has filed a brief response to the Motion.

5. Status of Discovery

The parties have exchanged Rule 26(a)(1) disclosures. The parties have also engaged in initial written discovery and some documents have been produced pursuant to written requests. Further document production remains to be completed. The parties have discussed electronic discovery and have agreed on specifications for such discovery. One deposition has been completed.

6. Trial Before Magistrate

The parties have not agreed to consent to trial before the Magistrate Judge.

7. Deadlines

No dates have been set concerning a discovery cut-off, the submission of a pre-trial order or trial.

8. Settlement Negotiations

Based on the pleading history, motion practice and discovery issues that are implicated in this case, an initial effort was made to address the matter of settlement. Further, and given the pending discovery motions, an effort was made to obviate at least some major aspects of the discovery disputes. To this point those efforts have been unsuccessful; however, Plaintiff believes intervention in these matters by the Magistrate Judge will undoubtedly advance the ball on these pending matters and should eliminate or resolve at least some of the contested issues without the need for protracted briefing. Defendants do not agree that involving the Court in settlement discussions at this point will be fruitful.

Dated: April 25th, 2008

Respectfully submitted,

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